



## **Arlington Board of Health Minutes**

Date: *Wednesday, April 10, 2019*

Time: *5:30 pm*

Location: *Arlington Senior Center, 27 Maple Street, Arlington MA 02476 (Mural Room)*

Attendance: Dr. Marie Walsh Condon, Dr. Kevin Fallon, Mr. Kenneth Kohlberg

Staff in Attendance: Natasha Waden, Public Health Director; Pat Martin, Health Compliance Officer; Kylee Sullivan, Health Compliance Officer; Jessica Kerr, Public Health Nurse

Others in Attendance: D.J. Wilson, Mass Municipal Association; Adam Kurowski, Town of Arlington I.T. Department; Mr. John Kozma

Recording Secretary: Laura Munsey, Office Manager, Health and Human Services

### **Minutes**

Meeting called to order by Dr. Marie Walsh Condon at 5:38 pm

#### **1. Acceptance of Meeting Minutes from February 6, 2019**

Motion Made by Dr. Kevin Fallon, seconded by Mr. Kenneth Kohlberg to accept the February 6, 2019 meeting minutes as submitted.

Vote: 3-0 in favor of the motion (Unanimous)

#### **2. Correspondence Received: Lester J. Hartman, MD**

Inspector Pat Martin informed the Board that the Health Department received 2 emails from Lester Hartman, MD on February 2, 2019 and March 15, 2019 regarding his involvement in the Tobacco 21 Campaign and related legislation. Mr. Martin read the correspondence aloud. Included with the second email were 3 attachments:

- Massachusetts Flavor Restriction Map
- Research Article regarding Menthol cigarettes and the public health standard: a systematic review
- Effects of Nicotine and Mint/Menthol on Genes and Disease Risks

Copies of the attachments were provided to the Board.

### 3. Discussion: Tobacco Update – D.J. Wilson

Director Waden introduced Mr. D.J. Wilson of the Massachusetts Municipal Association. Mr. Wilson provided a hand out to the Board: Municipal Tobacco Control Technical Assistance Programs' Local Policies Restricting Flavored "Other Tobacco Products" (OTP) to Adult-Only Retailers.

Mr. Wilson informed the Board that several communities are researching restrictions similar to the ones which Somerville recently added to their tobacco regulation. The amendments to Somerville's regulation include:

- Removing menthol, mint, and wintergreen from the exempted section of the characterizing flavor definition and moving it to the list of flavors that are considered flavored tobacco
- Limiting the sale of e-cigarettes to adult-only retail tobacco stores
- Re-categorizing tobacco as a flavored product for e-cigarettes

Needham, Ashland, and Malden have updated their tobacco regulations to include sections of Somerville's amendments. Several other communities are contemplating the addition of similar restrictions to their regulations. The Town of Brookline is currently considering a warrant article to ban flavored tobacco from all tobacco retailers. Mr. Wilson informed the Board that Somerville's amendments are facing legal challenge.

Currently, Arlington's tobacco regulation includes a basic cap based on population density. Mr. Wilson explained that the Town could consider including an advanced cap which would allow for the maximum number of permits to be reduced when a retailer stops selling tobacco and returns their permit. A dual cap may also be considered with either a basic or an advanced cap.

Mr. Wilson presented options for the Board to consider:

1. Amend nicotine and tobacco product definitions regardless of nicotine content. Mr. Wilson added that the State and the Attorney General's Office include vape pens in the definitions.
2. Amend the cigar sales section to include updated language.
3. Include the regulation of CBD in the Town's tobacco regulations. As an example, Mr. Wilson informed the Board that Medford limited the sale of CBD to adult-only establishments. Mr. Wilson discussed the lack of regulation for CBD. At the state level, the Department of Agricultural Resources is tasked with regulating CBD cultivation, production, and sale. However,

the implementation of such regulations is still in the works. Public health concerns related to CBD include issues of quality control, particularly assessing and confirming purity and strength.

Director Waden recommends the Staff review current regulations to make appropriate updates due to the fluid and rapidly changing nature of vaping products. Mr. Wilson stated that menthol is often what principals are finding in schools. Kenneth Kohlberg expressed concern that the Arlington Board of Health is being asked by Dr. Hartman to implement a regulation similar to the regulation in Somerville for which they are being sued. Mr. Wilson stated that, in Somerville, retailers didn't seek an injunction but asked the courts to set the case aside on the grounds that the regulations are arbitrary and capricious. Somerville Board of Health members were named individually in the law suit. Other communities have pushed the start date out to see how the Somerville case is resolved.

The Board thanked D.J. Wilson for his informative presentation. The Board requested some additional information and will look into capping establishments.

4. Discussion: Novus Agenda – Adam Kurowski. Adam Kurowski thanked the Board for considering the implementation of Novus Agenda. The Board of Health is the 4<sup>th</sup> Board in Town to explore Novus Agenda. Mr. Kurowski led an interactive demonstration of the program with the Board. Benefits of Novus Agenda were discussed such as the creation of a database that is keyword searchable. This is particularly helpful for Public Record Requests received by the Department. Novus Agenda is easy to use during Board meetings and also is available for research and preparation work before meetings, especially because users can add notes to agenda items. Mr. Kurowski explained that another benefit of the program is that the public can access the uploaded documents on the program as well. Mr. Kurowski stated there are 2 steps remaining. The steps are: 1) ensure all Board members and Department Staff are trained in using the program and 2) input minutes within the program itself. Mr. Kurowski explained that the Board can use the program on any device, including their personal computers, laptops, or tablets. This is because software is not installed, but rather the program is website-based. It was recommended that the Health consider uploading regulations to the database. Ken Kohlberg stated that he likes getting paper copies of the packets, to which the rest of the Board agreed. It was decided that the Board will continue to receive paper packets as long as needed or requested.

Mr. Kurowski presented the following questions to the Board:

1. Should the public facing search tool be added to new agenda packets uploaded to the website?  
The Board agreed they would like to do that. The packets would be embedded on the website, and a calendar message would link to the agenda page.
2. Should accepted meeting minutes be published through Novus Agenda?  
The Board agreed they would like to do that as well.

3. Would the Board like to continue to explore using Novus Agenda during the meetings with Mr. Kurowski available for guidance?

The Board also agreed to this.

Mr. Kurowski will work with Director Waden and send additional information. The Board stated they would like to use Novus Agenda on different types of electronic devices in future meetings. The Board thanked Mr. Kurowski for his assistance and expertise regarding this transition to Novus Agenda.

5. Hearing: Keeping of Hens – 4 Alpine Street. Inspector Sullivan informed the Board that a site plan review application was submitted for the Keeping of Hens by 4 Alpine Street property owner, John Kozma. She reported everything was complete and all requirements were met. Inspector Sullivan conducted a site walk and inspected the proposed coop location, compost location, and feed storage area. She did not observe any issues during her visit. One of the property abutters recently passed away, and the applicant reached out to the estate. Inspector Sullivan reported that sufficient notification was provided. The applicant reported that he completed a hen keeping course through Arlington Community Education. The course covered how to store food, make the pen area predator proof, and keep the hens healthy and dry in the winter. Inspector Sullivan stated that the instructor at Arlington Community Education reached out to the Health Department and tailored the course to the Arlington Hen Bylaw.

Motion: Made by Kevin Fallon, Seconded by Kenneth Kohlberg to approve the keeping of hens permit at 4 Alpine Street in Arlington contingent upon final construction of coop and final inspection by the Health Department.

Vote: 3-0 in favor of the motion (Unanimous)

6. Hearing: Microblading. The applicant withdrew her variance request. As a result, no further action is required at this time.

7. Hearing: Regulation of the Arlington Board of Health Restricting the Sale of Medical Marijuana. Inspector Martin recommended the following housekeeping item: amend the regulation to include the incorporation of 935 CMR 501.000. This will allow Department Staff to enforce both local regulations and also state regulations.

Motion: Made by Dr. Kevin Fallon, Seconded by Mr. Kenneth Kohlberg to update the Regulations Restricting the Sale of Medical Marijuana as recommended by the Health Department.

Vote: 3-0 in favor of the motion (unanimous)

Director Waden discussed with the Board the process of applying for an Adult-Use Marijuana Establishment Permit. She stated interested applicants must have a community host agreement in place. Currently, Doug Heim, Town Counsel, is creating a step by step process for this as many Departments are involved in the permitting of such an establishment. Director Waden stated that several residents attended a recent Select Board Meeting to express concern about Adult-Use Marijuana. She reported that Mass Patient Foundation is attempting to amend their community host agreement to change their dispensary location, and expand their establishment to adult-use recreational as well. Zoning caps for Adult-Use Marijuana Establishments are currently at 3 but there is the potential to have 3 recreational and unlimited medical establishments in Town.

8. Updates:

19 Beck Road – Basement. Inspector Martin informed the Board this basement apartment has been disassembled after the Building Department inspected the dwelling and required the removal of several kitchen elements. Inspector Martin stated that presently no one is living in basement and the owner is aware that it is an uninhabitable space. All other housing code violations have been brought into compliance.

9. Updates:

Environmental. Inspector Sullivan informed the Board that spring permits renewals for the keeping of hens have been sent to residents. She also stated that applications for camps, pools, and bathing beaches are being updated and will be available to the public soon. Inspector Sullivan stated there are rodent concerns at two elementary schools including Dallin and Stratton. Dry ice was implemented, and upon recent inspection the treatments appear successful. Inspector Sullivan discussed that it is important to eliminate all food sources for rodent control. Inspector updated the Board on her work with the Attorney General's Abandoned Housing Initiative (AHI). 27 Hopkins Street has recently been sold and all violations have been brought into compliance. Currently, the Town is working with the AHI on 1530 Mass Ave and 44 Rublee Street.

10. Updates:

Restaurant Updates. Inspector Martin informed the Board:

- 2 new establishments have opened: USushi Café and Bubble Nation
- There have been no new closures
- There are 6 open plan reviews
- The Department has signed off on a waiver for pest control at the Gibbs School

11. Updates:

Public Health Nurse Updates. Jessica Kerr informed the Board of an incident regarding a 5 and 7 year old in an after school program at the Gibbs School that got stuck with a needle the end of March. One student stuck herself with the needle, and the other helped out and subsequently stuck herself. Both children were brought to Winchester Hospital. The needle was kept and will be tested. This incident brings to light a growing problem with IV drug use. In response to the incident, all schools educated students about what to do in similar situations. After school programs are speaking with their students as well. Nurse Kerr stated there are no updates on the two students but when she last heard, they were well and healthy. It was reported that schools are conducting sweeps of the property and outside grounds.

Nurse Kerr also reported that the MRC is hosting training in May. At the training there will be three speakers, one of which is the MRC leader who helped during the gas explosions in Andover.

Meeting adjourned at 7:18 pm

Next meeting is scheduled for May 22, 2019 at 5:30 pm